Honorable Virginia B. Merritt, Chairman
Covington County Board of Registrars
228 Hillcrest Drive
Andalusia, Alabama 36420

Election Officials – Registrars, Board of – Voting – Provisional Ballots – Voter Registration List

If a person’s name does not appear on the voter registration list for the precinct where he or she is attempting to vote, an election official should not add the voter’s name to the official voter registration list at the polling place, and the voter should not be allowed to vote, except as follows: If the voter presents a certificate of verification from the board of registrars or the election official receives verification by phone that the voter is entitled to vote at that precinct, the election official and the voter must complete the verification form, and the voter may cast a regular ballot. If this verification is not provided, the voter may cast a provisional ballot.

Dear Ms. Merritt:

This opinion of the Attorney General is issued in response to your request on behalf of the Covington County Board of Registrars.

QUESTION

Is it legal for an election official working at the polls to allow a voter to vote at the
precinct and to write the name of the voter on the bottom of the voter registration list if the voter’s name is not on the list at that precinct, but is on the official list of another precinct in the county?

FACTS AND ANALYSIS

Voter registration is based upon residency, and a voter must vote in the county, district, or precinct in which he or she resides. Opinion to Honorable Virginia B. Merritt, Chairman, Covington County Board of Registrars, dated December 17, 2003, A.G. No. 2004-041. Section 17-9-10 of the Code of Alabama states as follows:

At all elections held within this state, the elector shall vote in the county and voting place of his or her domicile and nowhere else and shall have registered as provided in this title. If any elector attempts to vote in any voting place other than that of his or her domicile, his or her vote shall be rejected, except when casting a provisional ballot, as provided by law.


Section 17-10-3 of the Code further provides as follows:

It shall be unlawful for any elector to cast his or her ballot during any general election, primary election, municipal election or special election in any precinct, any district, any ward, or any other subdivision where his or her name does not duly appear upon the official list of the precinct, district, ward, or subdivision. All ballots cast in any election contrary to this section are hereby declared illegal and, upon a contest duly instituted, the ballots shall be excluded in determining the final result of any election; provided, that nothing in this section shall prevent any qualified elector residing in the precinct, ward, or voting district from voting after presenting a proper certificate from the board of
registrars, or from voting a provisional ballot or a provisional ballot in municipal elections when his or her name does not duly appear upon the official list of the precinct, district, ward, or subdivision.

**AL. CODE § 17-10-3 (2006).**

Provisional ballots are authorized under section 17-10-2 of the Code. This section provides, in pertinent part, as follows:

(a) A voter shall be required to cast a provisional ballot when:

(1) The name of the individual does not appear on the official list of eligible voters for the precinct or polling place in which the individual seeks to vote, and the individual's registration cannot be verified while at the polling place by the registrar or the judge of probate.

**AL. CODE § 17-10-2 (2006).** This section provides that, if a person's name does not appear on the official list of voters for the precinct where the person is attempting to vote and the person's name cannot be verified as a registered voter in that precinct, the person shall cast a provisional ballot.

The foregoing sections make it unlawful for a voter to cast a ballot in a precinct where his or her name does not appear on the official list of voters for that precinct. A voter may, however, vote in a precinct where his or her name does not appear upon the official list of that precinct if the voter obtains proper verification from the board of registrars.

For example, if a voter's name does not appear on the official list for the precinct where the voter is attempting to cast a ballot, the voter or the election official may contact the board of registrars to determine if an error was made and the voter's name should have been listed on the official list for that precinct. If the board of registrars determines that the voter is a registered voter and the voter's name should have been listed on the official list for that precinct, the board would present the voter with a certificate verifying that the voter is entitled to vote at that precinct. Opinion to Honorable Lindbergh Jones, Chairman, St. Clair County Board of Registrars, dated December 30, 1997, A.G. No. 98-00063. In the past, the election official, upon presentation of this certificate, would add the
voter's name to the official list of voters for that precinct and allow the person to vote a regular ballot. *Id.*

With the adoption of provisional voting, an updated verification procedure has been implemented for permitting a person to vote a regular ballot if the board of registrars is able to confirm that the person is a registered voter but his or her name was left off the list. This verification will usually be received by the poll worker via telephone on election day. Specifically, the election official and the voter would complete the "Voter's Reidentification/Update Form" (the NVRA-20). This form has a block on the top right to indicate that the form is being used for "verification" of the voter and a space on the reverse side of the form for the election official at the polls to document the name of the person (the name of the registrar) who verified the person's eligibility to vote. The person would vote a regular ballot, and this verification form would be returned to the board of registrars to update the voting record of that person. *See Ala. Code § 17-4-39 & 17-9-15 (2006) (updating voter histories).* The voter's name should not be added to the voter registration list at the polls. If the board determines that the voter is not entitled to vote at that precinct, the voter should not cast a regular ballot but may cast a provisional ballot.

Based on the foregoing, if a person's name does not appear on the voter registration list for the precinct where he or she is attempting to vote, an election official should not add the voter's name to the official voter registration list at the polling place and allow that person to vote. If, however, the voter presents a certificate of verification from the board of registrars or the election official receives verification by phone that the voter is entitled to vote at that precinct, the election official and the voter must complete the verification update form, and the voter may cast a regular ballot. If this verification is not completed, the voter may cast a provisional ballot.

**CONCLUSION**

If a person's name does not appear on the voter registration list for the precinct where he or she is attempting to vote, an election official should not add the voter's name to the official voter registration list at the polling place, and the voter should not be allowed to vote, except as follows: If the voter presents a certificate of verification from the board of registrars or the election official receives verification by phone that the voter is entitled to vote at that precinct, the election official and the voter must complete the verification form, and the voter may cast a regular
ballot. If this verification is not provided, the voter may cast a provisional ballot.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING
Attorney General
By:

BRENDA F. SMITH
Chief, Opinions Division